

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,)	FILED: JUNE 16, 2008
)	08CV3455
Plaintiff,)	JUDGE SHADUR
)	No. MAGISTRATE JUDGE DENLOW
v.)	NF
)	
ONE 2007 CADILLAC ESCALADE)	
VIN: 1GYFK63877R412537)	
)	<u>JURY DEMAND</u>
Defendant.)	

VERIFIED COMPLAINT FOR FORFEITURE

The United States of America, by its attorney, PATRICK J. FITZGERALD, United States Attorney for the Northern District of Illinois, for its verified complaint against the above-named defendant vehicle states as follows:

1. This complaint is verified by the attached affidavit of Special Agent Brian O'Neill of the Drug Enforcement Administration ("DEA"), which is fully incorporated herein.

Jurisdiction and Venue

2. This is an *in rem* forfeiture action brought pursuant to Title 21, United States Code, Sections 881(a)(4) for forfeiture of one 2007 Cadillac Escalade, VIN: 1GYFK63877R412537 ("defendant vehicle"), which property was used and intended to be used to facilitate narcotics trafficking, in violation of 21 U.S.C. § 801, *et seq.* This Court has jurisdiction over this action pursuant to 18 U.S.C. §§ 1345 and 1355(a).

3. This court has *in rem* jurisdiction over the defendant property pursuant to Title 28 U.S.C. § 1355(b)(1)(A), as certain of the acts giving rise to this forfeiture action occurred within the Northern District of Illinois.

4. Venue is proper under Title 28, United States Code, Section 1395(b) because the defendant vehicle was found and seized within the Northern District of Illinois on January 23, 2008 and shall remain here during the pendency of this action.

Statutory Authority

5. This forfeiture action *in rem* is brought pursuant to Title 21, United States Code, Section 881(a)(4).

Specific Allegations

6. On December 22, 2008, agents from the DEA received information relating to an organization involved in the distribution of thousands of pounds of marijuana in the Chicago area.

7. On January 23, 2008, law enforcement officers utilized a Confidential Source ("CS") and an Under Cover officer ("UC") to stage a controlled delivery of approximately 1330 pounds of marijuana to certain individuals, namely Julian Castaneda ("Castaneda"), Ryan Puga ("Puga"), Jesus Garcia ("Garcia"), and Rafael Fonseca in Chicago, Illinois.

8. On January 23, 2008, law enforcement officers loaded a semi tractor trailer with 1330 pounds of marijuana in preparation for the controlled delivery. The semi tractor was staged at a Denny's Restaurant parking lot located at 126 E N Frontage Road, Bolingbrook, Illinois. At approximately 1:45 p.m., the CS and UC met with Castaneda, Puga, Garcia, and Rafael Fonseca, who was driving the defendant vehicle. Castaneda exited the defendant vehicle and entered the semi tractor trailer with the UC and the CS and departed the area. The UC, who was driving the semi-tractor trailer, followed the defendant vehicle being driven by Fonseca with passengers Puga and Garcia, to Chicago, Illinois.

9. The CS, UC, and Castaneda drove to the vicinity of Kostner and 73rd, in Chicago,

Illinois, where the UC parked the semi tractor trailer. Meanwhile, Rafael Fonseca drove the defendant vehicle to a Budget Rent a Car located near the intersection of Cicero and 89th in Chicago Illinois. Rafael Fonseca, Puga, and Garcia exited the defendant vehicle and entered a Budget Rent a Car Box Truck ("Box Truck"). Subsequently, Rafael Fonseca drove the Box Truck to the intersection of Kostner and 73rd, where the semi tractor trailer was located. Castaneda, Puga, Garcia, and Rafael Fonseca then transferred 24 bundles of marijuana from the semi tractor trailer to the Budget Box Truck. Puga, Garcia, and Rafael Fonseca then got into the Box Truck and departed the area. Rafael Fonseca drove the Box Truck to a residence occupied by Maria Garcia, Rafael Fonseca's girlfriend, at 6407 S. Spaulding Avenue, Chicago, Illinois. Once there, Puga, Garcia, and Rafael Fonseca began to unload the marijuana from the Box Truck. Subsequently, Puga, Garcia, Rafael Fonseca were each arrested by law enforcement, and the 24 bundles of marijuana totaling approximately 1330 pounds were recovered from the Box Truck. Castaneda was also later arrested. A rental agreement subsequently recovered from Budget Rent a Car reflected that the Box Truck was rented in the name of Rafael Fonseca.

10. A subsequent law enforcement consensual search of the premises at 6407 Spaulding Avenue, Chicago, Illinois resulted in the recovery of 38 grams of cocaine. Rafael Fonseca indicated in a Mirandized post-arrest statement to law enforcement that the cocaine found in the residence belonged to him and not his girlfriend, Maria Garcia. Rafael Fonseca additionally gave the keys to the defendant vehicle to law enforcement agents who then seized the defendant vehicle from the parking lot of Budget Rent a Car where Fonseca acknowledged having left the vehicle while utilizing the rented Box Truck. The defendant vehicle was seized for forfeiture as property used or intended to be used to facilitate narcotics trafficking, in violation of 21 U.S.C. § 801, *et seq.* to transfer 1330

pounds of marijuana as described in paragraph nine (9) above.

11. On January 25, 2008, Jesus Fonseca filed a police report claiming that the defendant vehicle was stolen on January 23, 2008. The police report is consistent with drug traffickers attempting to protect assets and avoid forfeiture procedures by law enforcement.

12. Records seized from the defendant vehicle and Illinois Secretary of State databases reflect that the defendant vehicle was purchased on approximately June 14, 2007 and is registered to Jesus Fonseca, the brother of Rafael Fonseca. Jesus Fonseca purchased the defendant vehicle from Weil Cadillac-Hummer, Inc., Libertyville, Illinois for approximately \$65,500. Jesus Fonseca made a cash payment of \$10,500 down on the defendant vehicle by personal check (\$5,500) and cash (\$5,000)). Jesus Fonseca financed the remaining balance for the defendant vehicle, approximately \$50,000, through General Mortgage Acceptance Corporation (GMAC). The loan obtained from GMAC was eventually satisfied and it appears that the defendant vehicle has no outstanding liens.

13. Public and law enforcement databases conducted reflect that as of January 2008, Jesus Fonseca is unemployed and has no criminal history.

14. During a January 23, 2008 consensual interview conducted at the time of the consensual search referenced in paragraph 10 above, Maria Garcia stated that Rafael Fonseca stayed with her 6407 Spaulding Avenue, Chicago, Illinois approximately 4-5 times a week. Maria Garcia further stated that Rafael Fonseca is the owner of the defendant vehicle. Garcia further stated that she has not witnessed anyone other than Rafael Fonseca drive the defendant vehicle. Additionally, Garcia stated that the defendant vehicle is the only vehicle she has ever seen Rafael Fonseca drive.

15. The statements made by Maria Garcia, as described in paragraph fourteen (14) above, in which she indicates that Rafael Fonseca, at all times possessed and controlled the defendant

vehicle, is an indication of Rafael Fonseca's true ownership of the defendant vehicle. Further, based on the experience of law enforcement officers, registering vehicles in the names of straw owners is consistent with drug traffickers attempting to protect assets and evade identification by authorities.

16. Public and law enforcement database searches reflect as of January 2008 that Rafael Fonseca is unemployed and has a criminal history that includes a 2005 arrest and conviction for possession of a controlled substance and sentenced to 18 months probation. Rafael Fonseca was also arrested in 2005 for possession of over 15 grams of heroin. He plead guilty and was sentenced to 8 days and 24 months probation. Rafael Fonseca was also arrested in 2004 for battery and was ordered to pay a fine in the amount of \$1,783.00.

17. On February 14, 2008, Castaneda, Puga, Garcia, and Rafael Fonseca were each charged individually in the Circuit Court for the Seventh Judicial Circuit Sangamon County, Illinois, Criminal Division, in a Statewide Grand Jury Indictment, with Cannabis Trafficking over 5,000 grams and Unlawful Possession with Intent to Deliver Cannabis related to the January 24, 2008 arrest, case No. 2008 MR 000106, entitled *The People of the State of Illinois vs. Julian Castaneda, Rafael Fonseca, Jesus Garcia, Felipe Puga and Ryan Puga*, which case is presently in Will County.

18. Based upon the facts related above, there is probable cause to believe that the defendant vehicle is property used and intended to be used to facilitate the distribution of 1330 pounds of marijuana and is subject to forfeiture pursuant to 21 U.S.C. § 881(a)(6) as property used or intended to be used to facilitate narcotics trafficking, in violation of 21 U.S.C. § 801, *et seq.*

WHEREFORE, THE UNITED STATES OF AMERICA requests:

A. That the defendant vehicle be proceeded against for forfeiture and condemnation, that a notice of forfeiture issue and that due notice be given to all interested parties to appear and show

cause why the forfeiture should not be decreed.

B. That the court adjudge and decree that the defendant vehicle be forfeited to the United States and disposed of according to law.

C. That pursuant to Federal Rule of Civil Procedure 38, Plaintiff United States of America demands trial by jury.

Respectfully submitted,
PATRICK J. FITZGERALD
United States Attorney

By: Marsha McClellan / by Jazeh Legum
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COUNTY OF COOK
STATE OF ILLINOIS

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AFFIDAVIT

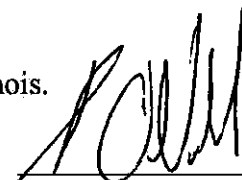
BRIAN O'NEILL, being duly sworn on oath, deposes and states as follows:

1. I am an agent with the Drug Enforcement Administration assigned to the Chicago office and have been so for approximately four years. My duties and responsibilities as agent with the DEA involve the investigation of alleged violations of the Controlled Substances Act, Title 21 of the United States Code.

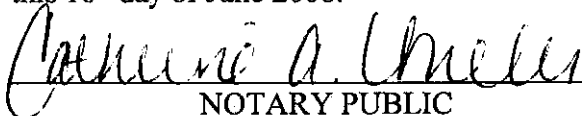
2. I have read the amended complaint in this matter and the facts alleged are true and correct to the best of my knowledge, information, and belief based upon my own personal knowledge as well as information I have received from other sources. Because this affidavit is for the limited purpose of establishing that this property is subject to forfeiture, it does not include each and every fact known to me concerning this investigation or the conversations described therein.

3. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on June 16, 2008 in Chicago, Illinois.


BRIAN O'NEILL
Special Agent
Drug Enforcement Administration

SUBSCRIBED AND SWORN TO before me
this 16th day of June 2008.


NOTARY PUBLIC

